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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,685	11/18/1999	BOBBY MAL PHILLIPS	70493-(US06)	6259

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/06/2002

21

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/442,685

Applicant(s)

PHILLIPS ET AL.

Examiner

William P. Watkins III

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 145-149 and 151-166 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 152 is/are allowed.
- 6) ☒ Claim(s) 145-149, 151, 153 and 155-166 is/are rejected.
- 7) ☒ Claim(s) 154 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 18 October 2002 and 11 July 2002 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 145-151, 153, 155, 157-166 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn, III et al.

(U.S. 5,647,862) in view of Phillips et al. (WO 93/02235) and Thompson et al. (U.S. 5,281,208).

Osborn '862 teaches the use of an absorbent strip to transport liquid to places where it can penetrate a fluid directing strip (which is at least partially impermeable or resistant to liquid) and be absorbed into an absorbent layer (abstract). The absorbent strip may comprise capillary channel fibers (col. 9, lines 1-2). Phillips et al. teaches the use of capillary channel fibers which are substantially parallel in a tow and which have channels that are at least 40 microns wide (page 41, lines 5-15, Example 26). Thompson et al. teaches that fibers which have good inter capillary flow are separated by distances about the same or less than the width of intra capillary channels (col. 8, lines 55-65). The instant invention claims use of a capillary system to distribute liquid and a resistance layer under the distribution layer, with fibers being placed in a parallel tow and being less than 400 microns apart. It would have been obvious to one of ordinary skill of the art to have selected capillary fibers from those taught by Osborn '862. It would further have been obvious to orient the fluid direction layer and perforate it at desired locations in order to direct fluid to particular locations in a given absorbent

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application. It further would have been obvious to place the capillary channel fibers of Osborn in a parallel tow and separate them about the same distance as the width of the intra capillary channels in order to maximize both intra and inter capillary flow in the direction desired for ultimate storage of absorbed fluid because of the teachings of Phillips et al. and Thompson et al. Regarding claim 153, capillary channel fiber bundles should have a high rate of fluid transfer per unit weight of fiber.

4. Claim 152 is allowed.

5. Claim 154 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: there is no suggestion in Osborn '862 to use the particular type of fiber bundle, specified in claims 152 and 154, in combination with the other recited limitations of claims 152 and 154.

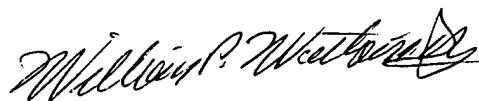
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7. Applicant's arguments filed 18 October 2002 are moot in view of the new grounds of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 703-308-2420. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



WILLIAM P. WATKINS III
PRIMARY EXAMINER

WW/ww

November 4, 2002